

REMARKS

Upon entry of this Amendment, claims 1-17 and 27-29 are pending. Claims 18-26 are canceled.

Applicants thank Examiner Dang Le for his time in conducting the telephonic Interview with Applicants' Representative Chad W. Shea (Reg. No. 48,470) on March 12, 2004.

Applicants requested the Interview to receive clarification of the Restriction Requirement. No agreement was reached regarding the claims during the Interview.

In the Restriction Requirement dated February 23, 2004, the Examiner identifies the following four groups of claims directed to patentably distinct species of the claimed invention:

I. Claims 1, 2, 5-9, 16, 28, and 29, drawn to the apparatus of an electric motor with a stator frame and core type, classified in class 310, subclass 258.

II. Claims 10-15, drawn to the apparatus of an electric motor with an air switch, classified in class 310, subclass 68A.

III. Claims 18-26, drawn to the apparatus of an electric motor with a housing, classified in class 310, subclass 89.

IV. Claims 3, 4, 17, and 27, drawn to the apparatus of an electric motor with lead wires, classified in class 310, subclass 71.

The Examiner has required election of one of the species for prosecution on the merits under 35 U.S.C. § 121. The Examiner has identified claim 18 as generic.

The Applicants hereby provisionally elect, with traverse, Group I (claims 1, 2, 5-9, 16, 28, and 29) for further prosecution on the merits. The Applicants respectfully disagree with the propriety of the Restriction Requirement. Additionally, the Applicants request modification and reconsideration of this requirement because the election of species requirement is improper according to chapter 800 of the MPEP.

There are two criteria for a proper requirement for restriction between patentably distinct inventions: (A) The inventions must be independent or distinct as claimed; and (B) There must

be a serious burden on the Examiner if restriction is required. See M.P.E.P. 803. The Applicants respectfully assert that examination of the claims of Groups I, III, and IV can be made without serious burden on the Examiner.

In addition to claims 1, 2, and 5-9, Group I includes:

- claim 16 which ultimately depends from claim 10 of Group II,
- claim 28 which ultimately depends from claim 27 of Group IV, and
- claim 29 which ultimately depends from claim 27 of Group IV.

Applicants submit that since claims 16, 28, and 29 are classified in Group I, election of Group I should result in the Examiner reviewing the limitations of each of claims 16, 28, and 29. Thus, to properly search the claims of Group I, the Examiner will have to search for, among other things, the limitations of claim 10 and the limitations of claim 27.

Accordingly, at a minimum, Applicants submit that examination of claims 1, 2, 5-10, 16, and 27-29 can be accomplished without serious burden on the Examiner. Further, Applicants submit that examination of claims 1-17 and 27-29 can be accomplished without serious burden on the Examiner because claims 3 and 4 each ultimately depend from claim 1, and claims 11-15 and 17 each ultimately depend from claim 10. Therefore, Applicants request that the Restriction Requirement be modified to group claims 1-17 and 27-29 in a single group.

Summarizing the above, the election of Group I is made with traverse and the Applicants respectfully request modification and reconsideration of the restriction. Applicants assert that there will not be a serious burden on the Examiner to examine independent claims 10 (Group II) and 27 (Group IV) along with Group I. A search of the prior art generally relating to subject matter of claims 16, 28, and 29 will result in a complete and thorough search of the subject matter of these additional claims. Practicality, efficiency, and the lack of a serious burden on the Examiner dictate that the species election requirement, as applied to these claims, should be modified. In view of the above, it is respectfully submitted that the restriction requirement be modified and that claims 3, 4, 10-15, 17, and 27 be examined together along with elected claims

1, 2, 5-9, 16, 28, and 29. At the very least, claims 10 and 27 should be examined together along with elected claims 1, 2, 5-9, 16, 28, and 29.

Applicants note that in addition to the generic claim 18 as identified by the Examiner, claim 1 is generic to at least claims 2-9, claim 10 is generic to at least claims 11-17, and claim 27 is generic to at least claims 28 and 29.

Applicants reserve the right to file one or more divisional and/or continuation applications with claims directed to the subject matter of the non-elected claims and any claims in Groups, species, or subspecies for which a restriction requirement is made final as well as other subject matter, as Applicants deem appropriate.

The undersigned is available during normal business hours if a telephone conversation would be helpful to advance prosecution in this application.

Respectfully submitted,


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